
1991 Wis Eth Bd 5
GIFTS; IMPROPER USE OF OFFICE

A state public official may retain items presented for participation in opening ceremonies of a not-for-profit sporting event if they are presented for a reason unrelated to holding public office or are only of inconsequential value.

Eth. Bd. 638

March 4, 1991

Facts

[1] This opinion is based upon these understandings:

- a. You are an elected state official.
- b. You recently participated in the opening ceremonies of a not-for-profit sporting event.
- c. At the conclusion of the event, you were presented with a certificate of participation, a painter's cap with logo, and a sweatshirt with logo.

Question

[2] The State of Wisconsin Ethics Board understands your question to be:

May you retain the certificate of participation, the painter's cap, and sweatshirt, consistent with Wisconsin's code of ethics?

Discussion

[3] Wisconsin's Ethics Code generally prohibits a public official from using his or her public position to obtain anything of substantial value for his or her private benefit. §19.45(2), *Wisconsin Statutes*.¹ Conversely, a public official may receive and retain from anyone other than a lobbyist or a lobbyist's employer anything of value if the activity or occasion for which it is given is unrelated to the official's use of the state's time, facilities, services, or supplies and the official can demonstrate that the provision was unrelated to and did not arise from the recipient's holding or having held a public office. § 19.56(3)(b), *Wisconsin Statutes*.² If you were invited to participate in the

¹ Section 19.45(2), *Wisconsin Statutes*, provides:

19.45(2) No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated.

² Section 19.56(3)(b), *Wisconsin Statutes*, provides:

event for a reason unrelated to your holding a public office and other participants in the run also were presented with the items you received, then you may retain them under the provision cited above. If that is not the case, the Ethics Board generally advises that state officials not retain *any* items offered because they hold public office, except for items such as certificates of participation which clearly have almost no monetary value.

Advice

[4] You may retain any and all of the items presented to you for a reason unrelated to your holding public office or your use of state time, facilities, services, or supplies.

[5] For other cases, it is our understanding of the Statutes that the Legislature has said you may retain items only of inconsequential value such as certificates of participation.

19.56(3)(b) A state public official may receive and retain anything of value if the activity or occasion for which it is given is unrelated to the official's use of the state's time, facilities, services or supplies not generally available to all citizens of this state and the official can show by clear and convincing evidence that the payment or reimbursement was unrelated to and did not arise from the recipient's holding or having held a public office and was paid for a purpose unrelated to the purposes specified in sub. (1).